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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/671,761	09/26/2000	BRADLEY S. MASTERS	K35A0657	4727

35219 7590 10/03/2006

WESTERN DIGITAL TECHNOLOGIES, INC.
ATTN: SANDRA GENUA
20511 LAKE FOREST DR.
E-118G
LAKE FOREST, CA 92630

EXAMINER	
NGUYEN, HUY THANH	
ART UNIT	**PAPER NUMBER**
2621	

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/671,761	MASTERS ET AL.	
	Examiner	Art Unit	
	HUY T. NGUYEN	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 March 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 13 March 2006 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3 and 12-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al (2002/0054068).

Regarding claims 1 and 12, Ellis teaches a method and an apparatus (Figs. 3-4,9- 10) for generating a menu representing a viewing sequence of display contents

during a viewer's viewing session (Fig. 9) by using a recorder (Figs. 3-4, sections 0063-0065, section 0067), comprising:

recording first video data associated with a first plurality of display contents (902) using a preference engine to select the display content (recorded programs that is selected by the viewer preference, Figs. 9 and 10, sections 0066 - 0067);

selectively recording second video data associated with a second plurality of display contents (902) upon a viewer selecting the display contents (Fig. 9, sections 0063, 0066) (the viewer can record a program by viewing the program information) ;

defining a viewing session Fig. 9;

defining a third plurality of display contents (904) based upon available broadcast display contents during the viewing session and selected based upon the preference engine (the pending selections show the program selected by the viewer or viewer preference, Figs. 9,10);

displaying a menu of viewing choices, wherein the menu comprises at least one of the first plurality of display contents, at least one of the second plurality of display contents and at least one of the third plurality of display contents (Fig. 9) .

Since claims 1 and 12 do not specify how the first display content is recorded by the preference engine and how the second display content is recorded , the recorded selections display content (902) (showing the programs have been recorded) and pending selections display contents (904) (showing the selected program to be recorded) on the screen (fig. 9 of Ellis meet the claimed fist display content , second content and third display content . The displayed recorded selections (902)

and pending selections (904) of Ellis can be the selected programs have been recorded or to be recorded using user preference and the viewed information (Fig. 10, section 0067).

Regarding claims 2, Ellis further teach the method of Claim 1, wherein the viewing session has a duration of about four hours (Fig 9).

Regarding claim 3, Ellis further teaches the method of Claim 1, wherein the viewing session is defined as having a predetermined length upon activation of a video system (0021).

Regarding claim 13, Ellis further teaches the video system of Claim 12, further comprising a set top box coupled to the input port and configured to receive display Figs. 3-4).

Regard claim 14, Ellis further teaches the video system of claim 13, wherein the preference engine, the management module and the storage device are included in a video control device providing for a functionality of a personal video recorder section (Figs. 3-4 and 10).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 4-5 , 8-11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al (2002/0054068) view of Ellis et al (2004/0117831).

Regarding claim 4, Ellis (2002/00540680) does not teaches further teaches the method of Claim 1, further comprising receiving viewer input to select from the menu of viewing choices of one or more display contents for the viewing session to define a viewing sequence for display on a display (0114).

Ellis et al (2004/0117831) teaches a control means for receiving viewer input to select from the menu of viewing choices of one or more display contents for the viewing session to define a viewing sequence for display on a display (0114).

It would have been obvious to one of ordinary skill in the art to modify Ellis (2002/0054068) with Ellis (2004/0117831) by using a control means as taught by Ellis (2004/0117831)with the apparatus order to enhancing the capacity of the apparatus of Ellis (2002/0054068) to provide more convenience to the viewer in selecting programs for viewing .

Regarding claims 5 and 16, Ellis (2002/0054068) as modified with Ellis (2004/0117831) further teaches automatically changing channels during the viewing session, wherein the channels provide the broadcast display contents (See Ellis (2004/0117831) section 0120).

Regarding claim 8, Ellis (2002/0054068) as modified with Ellis (2004/0117831) further teach the method of Claim 4, further comprising analyzing the viewing sequence for time gaps and filling the time gaps with display content using the preference engine to select the display content (Ellis (2004/0117831) section 0136).

Regarding claim 9, Ellis et al (2002/0054068) as modified with Ellis (2004/0117831)further teach the method of Claim 1, further comprising determining whether a local source for video display content is connected (See Ellis 2004/0117831, sections 0104,0110).

Regarding claims 10 and 15, Ellis(2002/0054068) as modified with Ellis (2004/0117831) further teach the method of Claim 9, further comprising scanning the local source to obtain content Information(See Ellis 2004/0117831, sections 0102,0104,0111)

Regarding claim 11, Ellis (2002/0054068) as modified with Ellis (2004/0117831) further adding the content Information as a fourth plurality to the menu of viewing choices (See Ellis 2004/0117831, Fig. 5).

6. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al (2002/0054068) in view Ellis et al (2004/0117831) as applied to claims 1 and 3-4 above, further in view of Nagano (6,240,240).

Regarding claims 6 and 7, Ellis (2002/0054068) fails to teach analyzing the viewing sequence for conflicts caused by display contents that at least partially overlap and the viewer intervention .

Nagano teaches analyzing means for analyzing a conflict of the viewing (Fig. 17, column 9).

It would have been obvious to one of ordinary skill in the art to modify Ellis with Nagano by providing the apparatus of Ellis et al (2002/0054068) with a analyzing means as taught by Nagano for analyzing the conflicts of viewing thereby enhancing the capacity of the apparatus of Ellis (2002/0054068) in correcting the error of viewing.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

H.N

HUY NGUYEN
PRIMARY EXAMINER